

RECEIVED

BEFORE THE

JUN - 8 1995

Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

WASHINGTON, D.C. 20554

IN THE MATTER OF

AMENDMENT TO THE COMMISSION'S
REGULATORY POLICIES GOVERNING
DOMESTIC FIXED SATELLITES AND
SEPARATE INTERNATIONAL SYSTEMS

)
)
)
)
)
)

IB DOCKET NO. 95-41

DOCKET FILE COPY ORIGINAL

COMMENTS OF CAPITAL CITIES/ABC, INC., CBS INC.,
NATIONAL BROADCASTING COMPANY, INC. AND
TURNER BROADCASTING SYSTEM, INC.

RANDOLPH J. MAY
TIMOTHY J. COONEY
SUTHERLAND, ASBILL & BRENNAN
1275 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

CHARLENE VANLIER
CAPITAL CITIES/ABC, INC.
6TH FLOOR
21 DUPONT CIRCLE
WASHINGTON, D.C. 20036

HOWARD MONDERER
NATIONAL BROADCASTING COMPANY, INC.
WARNER BUILDING, 11TH FLOOR
1299 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

MARK W. JOHNSON
CBS INC.
SUITE 1000
1634 I STREET, N.W.
WASHINGTON, D.C. 20006

BERTRAM W. CARP
TURNER BROADCASTING SYSTEM, INC.
SUITE 956
820 FIRST STREET, N.E.
WASHINGTON, D.C. 20002

JUNE 8, 1995

THEIR ATTORNEYS

No. of Copies rec'd
List ABCDE

049

TABLE OF CONTENTS

SUMMARY	ii
I. AS MAJOR USERS OF SATELLITE FACILITIES, THE NETWORKS HAVE A SIGNIFICANT INTEREST IN THIS PROCEEDING	2
II. THE NETWORKS HAVE BEEN STRONG SUPPORTERS OF FCC EFFORTS TO PROMOTE COMPETITION IN THE SATELLITE SERVICE MARKETPLACE AND TO ELIMINATE SERVICE RESTRICTIONS	4
III. THE NETWORKS SUPPORT THE COMMISSION'S PROPOSAL TO ALLOW U.S.-LICENSED SATELLITES TO PROVIDE BOTH U.S. DOMESTIC AND U.S. INTERNATIONAL SERVICES	8
IV. THE COMMISSION SHOULD NOT RELINQUISH ITS AUTHORITY TO REQUIRE SATELLITE OPERATORS, IF NECESSARY, TO PROVIDE SERVICE ON A COMMON CARRIER BASIS	11
V. THE COMMISSION SHOULD ADOPT ITS EARTH STATION LICENSING PROPOSALS IN ORDER TO REDUCE UNNECESSARY PAPERWORK AND TO ENHANCE END USERS' OPERATIONAL FLEXIBILITY	13
VI. THE COMMISSION SHOULD NOT DELAY ACTION ON ITS ALREADY FORMULATED PROPOSALS CONCERNING U.S.-LICENSED FIXED-SATELLITES WHILE IT CONSIDERS WHAT PROBABLY WILL BE A WIDE VARIETY OF SUGGESTIONS CONCERNING POSSIBLE CHANGED REGULATORY TREATMENT OF INTELSAT SATELLITES, OTHER NON-U.S.-LICENSED SATELLITES, AND SATELLITES USED FOR MOBILE AND DIRECT BROADCAST SERVICES	17
VII. CONCLUSION	19

SUMMARY

Capital Cities/ABC, Inc., CBS Inc., National Broadcasting Company, Inc., and Turner Broadcasting System, Inc. (collectively, "the Networks") have a significant interest in the Commission's proposals to modify the regulatory scheme governing U.S.-licensed geostationary fixed-satellites. The Networks use satellite facilities extensively in the operation of their television and radio networks for functions including program distribution to their affiliated broadcast stations and cable system customers, backhaul transmissions from remote locations to their network operations centers, satellite newsgathering, and associated voice and data coordination and control circuits.

The Networks each either own and/or lease satellite transponders on U.S.-licensed satellites on a full-time basis. The Networks also rely heavily on occasional use satellite services, especially in light of the greater number of backhauls in today's burgeoning news and sports environment and the growth in program time-shifting and regional distribution of commercials. Absent the availability of reasonably-priced occasional use services, the Networks' costs for broadcast operations increase substantially, and the Networks' operational flexibility is adversely affected.

The Networks generally support the Commission's proposals to treat U.S.-licensed separate international satellite operators (such as PanAmSat, Orion and Columbia) and U.S.-licensed domestic satellite operators ("domsats") under a single regulatory scheme and to allow these U.S.-licensed satellite operators to provide U.S. international and U.S. domestic traffic on a co-primary basis, so long as the Commission clarifies that the international services provided by U.S.-licensed fixed-satellites must either originate or terminate in the United States. The elimination of the distinctions between U.S. domestic and U.S. international satellite operators should result in several identifiable public benefits, including reduced rates and increased end user options and operational flexibility. And the elimination of the Transborder Policy should eliminate the uncertainties and delays which sometimes have accompanied requests by the Networks and/or their satellite service providers seeking authorization to originate transborder transmissions to cover events from the Caribbean and Central American locations. In light of the current shortage of domestic satellite capacity, which is having particularly deleterious effects on the availability of reasonably-priced occasional use video service, the Commission should not allow U.S.-licensed satellite capacity to be diverted to international services that do not involve U.S. origination or termination points at least at one end.

The Networks oppose the Commission's proposal to eliminate the requirement that U.S.-licensed space station

licensees offer any capacity on a common carrier basis. The Networks urge the Commission to retain the current obligation of satellite operators to maintain a sufficient amount of capacity available on a common carrier basis to provide services required in the public interest. If U.S.-licensed satellite operators are relieved entirely of their obligations to provide service on a common carrier basis, they all could exit the occasional use marketplace and provide service only to full-time customers or increase dramatically occasional use prices, depriving broadcasters of the occasional service capacity that is -- and always has been -- integral to the broadcasters' public service role in providing on-the-spot coverage of important news and special events. By retaining the substantive obligation that adequate common carrier capacity remain available and retaining procedures that require a satellite operator to justify, and allow the public to comment on, proposed non-common carrier operations, the Commission will be able to assess whether sufficient common carrier capacity at just and reasonable prices remains available in the public interest.

The Networks endorse the Commission's proposal to allow all U.S.-licensed earth stations authorized for "ALSAT" to communicate with all current and future U.S.-licensed separate international satellite systems as well as all current and future domsats. Adoption of this proposal will enhance the operational flexibility of end users such as broadcasters by allowing them to choose the earth station that will access a U.S.-licensed satellite based on operational considerations rather than on whether the earth station has authorization to access a particular satellite.

Finally, the Networks note that in addition to soliciting comments on specific, already formulated proposals to treat all U.S.-licensed fixed-satellite services under a single regulatory scheme, the Commission also invited comments on several broad topics such as whether COMSAT should be permitted to provide U.S. domestic service using INTELSAT capacity and whether mobile satellite and direct broadcast satellite licensees should be permitted to provide domestic and international services on a co-primary basis. Because the Commission did not address these topics in any detail or make proposals with regard to them and because these topics raise complex issues, the Commission likely will receive a wide variety of suggestions concerning these topics. The Commission should not delay action on its proposals concerning U.S.-licensed fixed-satellite services while it considers the different, more wide-ranging and complex issues implicated in connection with its broad inquiries regarding INTELSAT and the mobile and direct broadcast satellite services. The Networks recommend that the Commission separate out its consideration of these latter topics so as not to delay action on its already well-formulated proposals to eliminate the

regulatory distinctions among U.S. domsats and separate international fixed-satellite systems.

RECEIVED

BEFORE THE

JUN - 8 1995

Federal Communications Commission

WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment to the Commission's)
Regulatory Policies Governing) IB Docket No. 95-41
Domestic Fixed Satellites and)
Separate International Systems)

**COMMENTS OF CAPITAL CITIES/ABC, INC., CBS INC.,
NATIONAL BROADCASTING COMPANY, INC. AND
TURNER BROADCASTING SYSTEM, INC.**

Capital Cities/ABC, Inc., CBS Inc., National Broadcasting Company, Inc., and Turner Broadcasting Systems, Inc. (collectively, "the Networks"), by their attorneys, hereby file these comments on the Notice of Proposed Rulemaking ("NPRM") issued April 25, 1995, in the above-captioned proceeding. The Networks generally support the Commission's proposals to eliminate the distinction between the Transborder Policy and the Separate International Systems Policy and to treat all U.S.-licensed geostationary fixed-satellites under a single regulatory scheme.^{1/} The Networks recommend that the Commission adopt these proposals relating to the fixed-satellite service on a prompt basis, separate from addressing the different and more

^{1/} By "fixed-satellites," the Networks refer to geostationary satellites offering communications between fixed (non-mobile) earth stations, including temporary-fixed (transportable) satellite news gathering facilities. Fixed-satellites are to be distinguished from satellites providing mobile satellite service (MSS) and direct broadcast service (DBS) as the Commission uses those designations in the NPRM.

complex issues related to proposals affecting the mobile satellite service, direct broadcast service, and INTELSAT and INMARSAT satellite services.

I. AS MAJOR USERS OF SATELLITE FACILITIES, THE NETWORKS HAVE A SIGNIFICANT INTEREST IN THIS PROCEEDING

As operators of broadcast and cable television networks, the Networks have a significant interest in the Commission's proposals to modify the regulatory scheme governing U.S.-licensed geostationary fixed-satellites. The Networks use satellite communications extensively in the operation of their television and radio networks for functions including program distribution to their affiliated broadcast stations and cable system customers, backhaul transmissions from remote locations to their network operations centers, satellite news gathering, and associated voice and data coordination and control circuits.^{2/}

The Networks each either own and/or lease satellite transponders on U.S.-licensed satellites on a full-time (24 hours per day) basis for program collection and distribution functions. Because of the inherent nature of their broadcast operations, the Networks often must act with great dispatch to cover fast-breaking news stories or other events at unanticipated remote locations. In order to meet their needs, the Networks also rely heavily on occasional use services to complement their full-time services, especially at times of peak usage, but at other times

^{2/} Each Network does not necessarily engage in each one of these operations or functions.

as well.^{3/} Indeed, occasional service is playing an increasingly important role in program distribution, with the greater number of backhauls in today's burgeoning news and sports environment, along with the growth in program time-shifting and regional distribution of commercials. Absent the availability of reasonably-priced occasional use services, the Networks' costs for broadcast operations increase substantially, and the Networks' operational flexibility which occasional service facilitates is adversely affected.

For their international video transmission requirements, the Networks presently rely exclusively on satellite technology and in large part on the satellite services provided by INTELSAT. They lease INTELSAT capacity on both a full-time and occasional use basis and access the INTELSAT system through its signatories, including the U.S. Signatory, COMSAT, here in the United States. The Networks also utilize the international space segment facilities of non-INTELSAT providers, including U.S.-licensed separate international system operators such as PamAmSat and Columbia Communications Corporation.

To meet their ground segment (earth station) requirements in the U.S., the Networks utilize their own licensed fixed earth stations located at their operations centers and affiliate locations and their own transportable satellite news

^{3/} Unlike full-time services, occasional services may be ordered, subject to the availability of capacity, on short notice, in small increments (minimum time commitments range from as few as five minutes to one-half hour) and from different origination and termination points from one day to the next.

gathering facilities. The Networks also utilize the earth station facilities of U.S. common carriers and private operators.

As major users of both domestic and international satellite facilities, the Networks support the Commission's proposals to reduce regulatory restrictions on the use of U.S.-licensed fixed-satellite facilities for communications originating and/or terminating in the U.S. Adoption of these proposals, subject to the considerations discussed below regarding the need to ensure the availability of occasional use service on a reasonably-priced basis, likely will enhance competition among U.S.-licensed satellite operators, thereby benefitting telecommunications users by exerting pressure to reduce end user rates, promote efficiency, and stimulate service and technological innovation.

II. THE NETWORKS HAVE BEEN STRONG SUPPORTERS OF FCC EFFORTS TO PROMOTE COMPETITION IN THE SATELLITE SERVICE MARKETPLACE AND TO ELIMINATE SERVICE RESTRICTIONS

Historically, the Networks have been strong supporters of Commission efforts to open the U.S. domestic and international satellite marketplaces to increased competition, to expand the availability of end user options, and to eliminate unnecessary restrictions on the provision and use of telecommunications services. For example, in the FCC's Spanish International Network proceeding, the Networks supported the proposal to permit broadcasters to secure INTELSAT television transmission services directly from COMSAT rather than through U.S. international

record carrier (IRC) intermediaries.^{4/} By adopting this proposal, the Commission provided broadcasters with the operational flexibility to order a complete end-to-end service from one IRC vendor or to piece together a service package themselves if they could meet their needs better through this alternative.

The Networks also recommended the adoption of the FCC's proposal to allow individual carriers to operate international earth stations communicating with the INTELSAT system independent of COMSAT ownership and control.^{5/} The Networks endorsed the Commission's proposal to allow the provision of international earth station services on a competitive, rather than on a cartel, basis and to require COMSAT to file cost-based tariffs for earth segment service separate from cost-based tariffs for space segment service in order to promote the creation of a competitive market for the earth station segment of an end-to-end service.^{6/}

The Networks supported proposals before the Executive Branch and the FCC to authorize entities separate from INTELSAT to provide international satellite services on a competitive

^{4/} See Spanish International Network, 70 F.C.C. 2d 2127 (1978), aff'd sub nom. ITT World Communications v. FCC, 725 F.2d 732 (D.C. Cir. 1984).

^{5/} Modification of Policy on Ownership and Operation of U.S. Earth Stations That Operate With the INTELSAT Global Communication System, 100 F.C.C. 2d 250 (1984).

^{6/} Id. at 279.

basis.^{7/} The Networks also participated in the Commission's decision on reconsideration to allow separate satellite system operators to offer occasional use television services in order to introduce potential competition into the international occasional television service marketplace. Subsequently, the Networks urged the FCC and the Executive Branch to adopt PanAmSat's proposal to eliminate the operating restrictions prohibiting separate system operators from providing services interconnected to the public switched networks.^{8/}

The Networks also endorsed requests seeking a declaratory ruling that the Commission has authority to license certain types of international earth stations communicating with the INTELSAT system to non-common carrier end users. First, in the Reuters proceeding, the Networks supported a flexible interpretation of Section 201(c)(7) of the Communications Satellite Act of 1962, 47 U.S.C. § 721(c)(7), so that the statute would not be construed as limiting the FCC's general Title III authority to grant an international earth station license for INTELSAT service to a non-carrier applicant for use in the

^{7/} See Establishment of Satellite Systems Providing International Communications, 101 F.C.C. 2d 1046 (1985), on recon. 61 Rad. Reg. 2d (P&F) 649 (1986), on further recon. 1 FCC Rcd 439 (1986).

^{8/} See Permissible Services of U.S. Licensed International Communications Satellite Systems Separate from INTELSAT, 7 FCC Rcd 2313 (1992).

applicant's private business.^{9/} In the Brightstar proceeding, the Networks supported the extension of the Reuters decision to permit the licensing of international earth stations communicating via the INTELSAT system for the provision of international television transmission services to third parties on a non-common carrier basis.^{10/}

More recently, the Networks supported the requests of separate system operators Columbia Communications Corporation and Orion Atlantic L.P. seeking special temporary authority ("STA") to provide U.S. domestic service on satellites licensed for international service. The Commission expressly cited the Networks' supporting comments in granting the STA requests.

In sum, the Networks consistently have supported proposals to introduce more competition into the satellite marketplace and to eliminate unnecessary restrictions on the provision and use of telecommunications services. The Networks once again support such proposals in this proceeding.

^{9/} See Licensing Under Title III Of The Communications Act Of 1934, As Amended, Of Private Transmit/Receive Earth Stations Operating With The INTELSAT Global Communications Satellite System, 3 FCC Rcd 1585 (1988), aff'd sub nom. TRT Telecommunications Corp. v. FCC, 876 F.2d 134 (D.C. Cir. 1989).

^{10/} Licensing Under Title III of the Communications Act of 1934, as amended, of Non-Common Carrier Transmit/Receive Earth Station Operating with the INTELSAT Global Communications Satellite System ("Brightstar"), 8 FCC Rcd 1387 (1993).

**III. THE NETWORKS SUPPORT THE COMMISSION'S PROPOSAL TO ALLOW
U.S.-LICENSED SATELLITES TO PROVIDE BOTH U.S. DOMESTIC
AND U.S. INTERNATIONAL SERVICES**

In the NPRM, the Commission proposes to treat U.S.-licensed separate international satellite operators such as PanAmSat, Orion and Columbia and U.S.-licensed domestic satellite operators ("domsats") under a single regulatory scheme whereby those U.S.-licensed satellite operators can provide domestic and international service on a co-primary basis. To implement this proposal, the Commission focuses on two Commission policies which currently govern the use of U.S.-licensed satellites for the provision of U.S. international services.

First, the Commission proposes to eliminate entirely the Transborder Policy under which U.S. domsats initially were limited to providing international services where: 1) INTELSAT could not provide the service, or 2) it would clearly be uneconomical or impractical to use INTELSAT facilities for the particular international service. Second, the Commission proposes to eliminate that aspect of the Separate Systems Policy which limits U.S.-licensed separate international satellite systems to providing U.S. domestic services that are "ancillary" to their customers' international services.

The Networks generally support the Commission's proposals to allow all U.S.-licensed satellites to provide U.S. international and U.S. domestic traffic on a co-primary basis, so long as the Commission clarifies that the international services provided by U.S.-licensed fixed satellites must either originate

or terminate in the United States. In light of the current shortage of domestic satellite capacity, which is having particularly deleterious impacts on the availability of reasonably-priced occasional services, the Commission should not allow U.S.-licensed satellite capacity to be diverted to international services that do not involve U.S. origination or termination points at least at one end and it should not relinquish its authority to require that a sufficient amount of service remain available on a common carrier basis.

Subject to these considerations, the Networks generally endorse the elimination of the distinctions between U.S. domestic and U.S. international satellite services. The Commission's pro-competitive "open skies" policies initiated in the 1970s for the domestic satellite industry resulted in the rapid growth of that industry and have yielded substantial benefits to communications users and the public at large. Similarly, the adoption of policies authorizing the development of U.S.-licensed separate international satellite systems has fostered the expansion of customized international satellite services. Although U.S.-licensed separate international systems do not yet provide effective competition to INTELSAT for international video transmission services, even the emerging competitive environment triggered by the introduction of separate satellite systems has fostered technical innovations and expanded customer choice in the international satellite marketplace. Adoption of the Commission's proposals for increased competition among U.S.-

licensed domsats and separate systems for domestic and international services that originate and/or terminate in the United States should accelerate this trend.

The removal of the existing barriers to additional competition in the U.S. satellite marketplace should result in several identifiable public benefits, including reduced rates and increased end user options and operational flexibility. These operational benefits are especially important in broadcasting where decisions must be made quickly on how to use available resources to provide television and radio coverage of news, sporting and entertainment events occurring in different parts of the country and the world from one day to the next.

Thus, the Networks endorse the Commission's proposal to eliminate the Transborder Policy. In the past, each of the Networks has experienced uncertainties and delays when they and/or their domsat vendors attempted to obtain FCC authorizations to originate programming using a U.S. domsat from locations such as Cuba, Haiti or other Caribbean or Central American sites. Although the Networks have worked constructively with the FCC staff to reduce the paperwork required of them as users of transborder services, as long as the Transborder Policy is in effect uncertainties and delays remain for the domsat operators. It will be useful, therefore, to eliminate the Transborder Policy.^{11/}

^{11/} While the Networks recognize that, even upon adoption of this aspect of the Commission's proposal, U.S. domsats who wish to
(continued...)

IV. THE COMMISSION SHOULD NOT RELINQUISH ITS AUTHORITY TO REQUIRE SATELLITE OPERATORS, IF NECESSARY, TO PROVIDE SERVICE ON A COMMON CARRIER BASIS

The Commission explains that initially all domsats were licensed to provide service on a common carrier basis. NPRM at para. 30. Subsequently, the Commission established a policy to allow domsat operators to sell or lease transponders on a non-common carrier basis upon a finding that granting a particular sales request will not unduly reduce the number of transponders available on a common carrier basis.^{12/} The Commission now proposes to eliminate any requirement that a U.S.-licensed space station licensee provide any amount of its capacity on a common carrier basis. NPRM at para. 31.

^{11/} (...continued)
provide transborder services will continue to be required to consult with INTELSAT pursuant to Article XIV(d) of the INTELSAT treaty (on a one-time basis) and to receive specific authorization from the foreign country involved (generally also on a one-time basis), nevertheless, those domsats no longer will be required to seek separate transborder authorizations from the Commission on an ad hoc basis. Elimination of the Transborder Policy will relieve U.S.-licensed satellite operators from some of the regulatory burdens of providing transborder service and will add certainty to the operational planning of end users such as the Networks that often must act quickly to identify transmission capacity available for coverage of fast-breaking international news stories on a cost-effective basis.

^{12/} Domestic Fixed-Satellite Transponder Sales, 90 F.C.C. 2d 1238 (1982), aff'd sub nom. Wold Communications, Inc. v. FCC, 735 F.2d 1465 (D.C. Cir. 1984), modified Martin Marietta Communications Systems, 60 RR (P&F) 2d 779 (1986). In Martin Marietta, in modifying the amount of information the operator was required to provide in seeking sales authority, the Commission expressly premised the reduced showing on the fact that at the time "there has not been a wholesale abandonment of the offering of transponders on a common carrier basis." Id., 782.

The Networks oppose changing the current obligation of satellite operators to maintain a sufficient amount of capacity to be made available on a common carrier basis. As described previously, the Networks are major users of occasional television satellite services in connection with providing coverage of fast-breaking news stories and/or events occurring at remote locations. Due to the current shortage of domestic satellite capacity, there has been a severe diminishment in the availability of reasonably-priced occasional service, as operators have sought to take advantage of the supply shortage to increase rates. For example, one of the domestic operators, Hughes, has informed users of its system that due to "a reduction in occasional transponder capacity," effective July 1, 1995, the hourly rate for occasional service will increase from \$255 per hour to \$1,000 per hour.

If U.S.-licensed satellite operators are relieved entirely of their obligations to provide service on a common carrier basis, theoretically they all could exit the occasional use marketplace and provide service only to full-time customers, depriving television service users of occasional service capacity that is -- and always has been -- integral to the efficient operation of their broadcast networks. In any event, the substantial reduction of occasional use capacity already has had an adverse impact on the rates for the occasional capacity that presently remains available.

Because of the inherent nature of broadcasting, occasional service plays an important public service role in facilitating on-the-spot coverage of news and special events. The Networks' experience in this marketplace illustrates why the Commission should require that a sufficient amount of capacity remain available on a common carrier basis. To effectuate this policy, the Commission should ensure the public retains the opportunity to comment on applications by satellite operators to provide satellite capacity on a non-common carrier basis. By retaining the substantive obligation that adequate common carrier capacity remain available and retaining procedures which require a satellite operator to show that any proposed non-common carrier operations are in the public interest, the Commission at least will be able to address situations in which users should be protected against the lack of reasonably-priced satellite services.

V. THE COMMISSION SHOULD ADOPT ITS EARTH STATION LICENSING PROPOSALS IN ORDER TO REDUCE UNNECESSARY PAPERWORK AND TO ENHANCE END USERS' OPERATIONAL FLEXIBILITY

Under the Commission's current licensing rules, earth stations are classified as either domestic or international depending upon which satellites will be accessed. Domestic earth stations typically are licensed to communicate with all satellites ("ALSAT") in the domestic portion of the orbital arc. Domestic earth station applicants do not need to specify each domestic satellite or system they wish to access; and once they are licensed they are not required to amend their licenses to

access each newly-launched domestic satellite or system.

International earth stations, on the other hand, are licensed to communicate with specific U.S.-licensed and non-U.S.-licensed international satellites and must amend their licenses each time they wish to access a different or newly-launched international satellite.

Consistent with its proposal to treat all U.S.-licensed satellite operators under a single regulatory scheme, the Commission proposes to eliminate the licensing distinctions between domestic and international earth stations using U.S.-licensed space segment. The Commission proposes to expand the "ALSAT" designation to include all current and future U.S.-licensed separate international satellites as well as all current and future U.S.-licensed domestic satellites.

The Networks support adoption of the Commission's proposal. Expanding the ALSAT designation to include all U.S.-licensed fixed-satellites will reduce the number of license modification applications that earth station licensees currently are required to file. Additionally, adoption of the Commission's proposal will enhance the operational flexibility of end users such as broadcasters that utilize a number of different earth stations and that need to access a variety of satellite systems to transmit and receive programming materials. Licensees of multiple earth stations should be allowed to choose the earth station that will access a satellite based on operational

considerations rather than on whether a particular earth station previously has been authorized to access a particular satellite.

In order to streamline further what historically has been a cumbersome licensing process for international earth stations, the Commission should consider other means of easing the paperwork burdens on earth station licensees and the FCC staff. For example, the Commission should consider extending its earth station licensing proposal by allowing earth stations licensed for ALSAT to access INTELSAT, Canadian, Mexican and other non-U.S. satellites for purposes of receiving authorized transmissions consistent with Section 705 of the Communications Act without applying for additional specific Commission authorization. While Section 201(c)(7) of the Communications Satellite Act of 1962, 47 U.S.C. § 721(c)(7), requires the Commission to restrict the licensing of "satellite terminal stations" that access INTELSAT capacity only to COMSAT or other common carriers, the Commission already has held in its Brightstar decision that, as long as an earth station licensed to a non-common carrier solely carries non-common carrier-originated INTELSAT traffic such as backhaul program transmissions, it will not be subject to the Section 201(c)(7) licensing restriction.^{13/} Under these circumstances, the Commission should consider proposing (in a separate phase of this proceeding, if necessary) blanket approval for non-common carrier earth stations licensed with ALSAT authorization to access

^{13/} Brightstar, 8 FCC Rcd 1387 at 1389.

INTELSAT satellites, as well as Canadian, Mexican or other non-U.S. satellites, for international communications that originate or terminate in the United States.^{14/}

A second modification to the Commission's earth station proposal which should be considered affects existing earth station authorizations to access U.S.-licensed separate international satellite systems. As discussed in the NPRM at para. 10, the Commission initially adopted the Separate Systems Policy with the condition that separate systems not provide any service interconnected to the public switched network ("PSN"). Subsequently, the U.S. Government adopted a policy for a phased relaxation of the PSN restriction, with a goal of complete elimination of the PSN restriction by January 1997. Despite this phased relaxation policy, existing earth station authorizations for accessing separate systems routinely include license conditions that prohibit all interconnection of separate system traffic with the PSN. Rather than require earth station licensees to submit formal applications to modify their existing separate system authorizations to conform to the various changes in the Separate Systems Policy, the Commission expressly should declare all such earth station license prohibitions null and void and limit enforcement of the current phase of the PSN transition program to the separate system operators themselves. Such a

^{14/} This proposal is not intended to suggest that the Commission change its existing regulation requiring the licensing of all receive-only earth stations communicating with INTELSAT satellites. 47 C.F.R. § 25.131(j)(1).

formal declaration will eliminate the need for large numbers of earth station license modifications to be processed and will conform existing earth station authorizations to the current PSN interconnection policy.

VI. THE COMMISSION SHOULD NOT DELAY ACTION ON ITS ALREADY FORMULATED PROPOSALS CONCERNING U.S.-LICENSED FIXED-SATELLITES WHILE IT CONSIDERS WHAT PROBABLY WILL BE A WIDE VARIETY OF SUGGESTIONS CONCERNING POSSIBLE CHANGED REGULATORY TREATMENT OF INTELSAT SATELLITES, OTHER NON-U.S.-LICENSED SATELLITES, AND SATELLITES USED FOR MOBILE AND DIRECT BROADCAST SERVICES

In addition to soliciting comments on its very specific proposals to treat all U.S.-licensed fixed-satellite services under a single regulatory scheme, in the last few paragraphs of the NPRM the Commission also invited comments on several broad topics such as whether COMSAT, the U.S. Signatory to INTELSAT, should be permitted to provide U.S. domestic service using INTELSAT capacity (NPRM at para. 39) and whether mobile satellite and direct broadcast satellite licensees should be permitted to provide domestic and international services on a co-primary basis (NPRM at para. 38). The Commission did not address these issues in any detail, and certainly not to the extent to which it addressed its concrete proposals with regard to U.S.-licensed fixed-satellite services.

The Commission need not resolve all the issues raised in the NPRM in a single order. For example, the questions regarding COMSAT/INTELSAT touched upon in the last paragraphs of the NPRM raise complex issues, the resolution of which necessarily must take into account the changes that currently are

being contemplated in the organizational structure of INTELSAT. In fact, a U.S. government interagency task force currently is working to formulate the U.S. position on the potential restructuring of INTELSAT.^{15/} Because the Commission's ultimate position on whether to allow INTELSAT to compete in the U.S. domestic satellite service market likely will be affected by the manner in which INTELSAT is restructured, the Commission should defer action on the INTELSAT aspect of the NPRM at least until after the U.S. government is further along in formulating its position on restructuring INTELSAT.

Similarly, the issues concerning the mobile and direct broadcast satellite services should be addressed separately. Unlike the fixed-satellite service which is a relatively mature service whose financial and operational characteristics (and regulatory structure) have evolved over the course of almost two decades, the mobile and direct broadcast services are relatively new services operating in still unsettled markets and for which the relevant regulatory issues are not nearly as well-defined.

Under these circumstances, the Commission should not delay action on its proposals concerning U.S.-licensed fixed-satellite services while it considers the different, more wide-ranging and complex issues implicated in connection with its inquiries regarding INTELSAT and other non-U.S.-licensed satellites and the mobile and direct broadcast services. The

^{15/} See "U.S. Seeks To Have Position On INTELSAT Privatization By Aug. Assembly Meeting," Communications Daily, April 27, 1995, at 3.

Networks recommend that the Commission separate out its consideration of these other issues so as not to delay action on its already well-formulated proposals to eliminate the regulatory distinctions among U.S. domsats and separate fixed-satellite systems.

VII. CONCLUSION

For the foregoing reasons, the Commission should take actions consistent with the views expressed herein.

Respectfully submitted,
CAPITAL CITIES/ABC, INC.
CBS INC.
NATIONAL BROADCASTING COMPANY, INC.
TURNER BROADCASTING SYSTEM, INC.

BY: Randolph J. May
RANDOLPH J. MAY
TIMOTHY J. COONEY
SUTHERLAND, ASBILL & BRENNAN
1275 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
THEIR ATTORNEYS

CHARLENE VANLIER
CAPITAL CITIES/ABC, INC.
6TH FLOOR
21 DUPONT CIRCLE
WASHINGTON, D.C. 20036

MARK W. JOHNSON
CBS INC.
SUITE 1000
1634 I STREET, N.W.
WASHINGTON, D.C. 20006

HOWARD MONDERER
NATIONAL BROADCASTING COMPANY, INC.
WARNER BUILDING, 11TH FLOOR
1299 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

BERTRAM W. CARP
TURNER BROADCASTING SYSTEM, INC.
SUITE 956
820 FIRST STREET, N.E.
WASHINGTON, D.C. 20002

June 8, 1995

CERTIFICATE OF SERVICE

I, Teresa Ann Pumphrey, hereby certify that a copy of the foregoing **Comments of Capital Cities/ABC, CBS, NBC and TBS** was served by first-class mail, postage prepaid, this 8th day of June, 1995, on the following persons:

Hon. Reed E. Hundt
Chairman
Federal Communications
Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Hon. Andrew C. Barrett
Commissioner
Federal Communications
Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Hon. Rachelle B. Chong
Commissioner
Federal Communications
Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Roderick K. Porter
Deputy Chief
International Bureau
Federal Communications
Commission
Room 800, Stop Code 0800
2000 M Street, N.W.
Washington, D.C. 20554

James Ball
Associate Chief for Policy
International Bureau
Federal Communications
Commission
Room 800, Stop Code 0800
2000 M Street, N.W.
Washington, D.C. 20554

Hon. James H. Quello
Commissioner
Federal Communications
Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Hon. Susan Ness
Commissioner
Federal Communications
Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Mr. Scott Blake Harris
Chief
International Bureau
Federal Communications
Commission
Room 800, Stop Code 0800
2000 M Street, N.W.
Washington, D.C. 20554

Ms. Kathleen M.H. Wallman
Acting Chief, Common Carrier
Bureau
Federal Communications
Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Tom Tycz
Division Chief
Satellite & Radio
Division
Federal Communications
Commission
Room 800, Stop Code 0800
Washington, D.C. 20554